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09/773,271	01/29/2001	Geoffrey E.H. Ballard	GENH116842	2017

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EXAMINER

STERRETT, JONATHAN G

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/773,271	BALLARD ET AL.	
	Examiner	Art Unit	
	Jonathan G. Sterrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary

1. Claims 1-29 are pending in the application.

Claim Objections

2. Claim 4 objected to because of the following informalities: the term "exchange" in the phrase "for payments issued by the exchange" is capitalized. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 1-13 are rejected under 35 U.S.C. 101 because the invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts: and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, none of the

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claims are directed to anything in the technological arts as explained above. Looking at the claims as a whole, nothing in the body of the claims recites any structure or functionality to suggest that a computer performs the recited steps.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention provides a network for utilizing ZEVs in an urban setting to provide logistics and supply chain services; which are a useful, concrete and tangible result. Although the recited process produces a useful, concrete and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, Claims 1-13 are directed to be directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 3 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 3 recites: "collecting fees from owners/operators of the plurality of fossil fuel burning vehicles by utilizing new or existing government fee collection agencies or agents thereof". The use of government fee collection agencies (GFCA) is mentioned in the specification as the agencies that typically collect applicable road license fees (page

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5 line 20-21). It is not clear that the GFCA's would participate in the manner desired for the invention to function. It is not clear what would be required to set up a possible new GFCA, as mentioned in Claim 3. The amount of direction given as to how these GFCA's would be engaged or created as part of the invention would require undue experimentation in order for one of ordinary skill in the art to predictably engage or create these GFCA's, therefore, the enablement requirement is not met

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the terms "causing" and "inducing" in the above referenced claims makes the claims indefinite.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 2, 4-6, 8-10, 12-18, 20-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Clean Air Act Amendment of 1990 (CAAA) in view of CRST, Inc. logistics and supply chain services. The Clean Air Act Amendments of 1990 are described in:

Oil & Gas Journal Aug 1994 article "U.S. natural gas industry aims to bolster role in transportation" hereafter referred to as Reference A;

Technology Analysis and Strategic Management Journal Article "The fit and misfit of technological capacity: Responses to vehicle emission regulation in the U.S.", June 1998, hereafter referred to as Reference D;

"U.S. Legislative and Regulatory Actions", March 1994, Automotive Engineering, v102 n3, pp. 1-5 hereafter referred to as Reference E;

"Electric Vehicles: The case for (and against) incentives", Public Utilities Fortnightly, April 1996, v134n8, pp. 24-28, hereafter referred to as Reference F)

CRST, Inc. logistics and supply chain services are described in the following websites:

Webarchive.org webpage of 5-4-99,
www.crst.com/stcpgs/warehousing.html, hereafter referred to as Reference B.

Webarchive.org webpage of 4-22-1999,
www.crst.com/stcpgs/solution1.html, hereafter referred to as Reference C.

Regarding Claim 1, CAAA teaches: causing a plurality of zero emission vehicles (ZEVs) to carry freight to and/or from a port and a corresponding urban area (Reference A page 2 paragraph 8 line 6, clean fuel fleet program affects urban areas with excessive ground level ozone); inducing through economic incentives a plurality of fossil fuel burning vehicles to utilize services of the ports to carry freight both to and from urban areas (Reference A page 3 paragraphs 1 & 2, Clean Air Act Amendments (CAAA) requires operators of fleets in high pollution areas to purchase 50% of clean fuel large fleet vehicles by 1998). CAAA does not teach providing a network of a plurality of ports

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disposed near corresponding urban areas, utilizing the ZEVs associated with the ports; and coordinating the transfer of freight between the plurality of ZEVs and the plurality of fossil fuel burning vehicles at the plurality of ports. CRST does teach providing a network of a plurality of ports disposed near corresponding urban areas (Reference B paragraph 3 line 1-2, warehousing provided where needed by CRST's logistics network), utilizing the ZEVs associated with the ports; and coordinating the transfer of freight between the plurality of ZEVs and the plurality of fossil fuel burning vehicles at the plurality of ports (Reference B paragraph 1 line 2-3, transportation coordinated with product flow and storage; Reference B paragraph 4 line 3, cross-docking is part of the logistics service provided by CRST). Since the CAAA incentivizes use of alternative fuel, lower polluting vehicles in restricted urban areas, it would be obvious for an integrated third party logistics provider (3PL) such as CRST to locate ports such that fossil-fuel burning vehicles could cross dock freight through the ports to ZEVs that would then carry and distribute the freight into the urban area. It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to locate a plurality of ports located near corresponding urban areas to coordinate the transfer of freight into urban areas utilizing ZEVs for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 2, CAAA does not teach scheduling and dispatching the plurality of ZEVs relative to arrival at and departure from the plurality of ports at which

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freight is transferred between the plurality of ZEVs and the plurality of fossil fuel burning vehicles. CRST does teach scheduling and dispatching the plurality of ZEVs relative to arrival at and departure from the plurality of ports at which freight is transferred between the plurality of ZEVs and the plurality of fossil fuel burning vehicles. It is old and well known in the art of logistics to schedule and dispatch freight that is coming into and going out of a port (Reference B paragraph 4 line 3, CRST teaches cross-docking at their freight ports; Reference C paragraph 3 line 1-2, CRST provides JIT shipments for auto plant, requiring detailed scheduling and dispatch). It would have been obvious to one of ordinary skill in the art at the time of invention to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to schedule and dispatch ZEVs from the plurality of ports at which freight is transferred for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 4, CAAA teaches providing a commodities exchange for the owner/operators of the plurality of fossil fuel burning vehicles to trade land port usage credits between and among themselves, such that a first subset of owner/operators have credits debited from their accounts in exchange for payments issued by the Exchange, and a second subset of owner/operators have credits credited to their accounts in exchange for payments paid to the exchange by the second subset of owner/operators (Reference E page 3 paragraph 5 line 7-8, credits can be banked for future compliance requirements or sold to other fleet operators).

Regarding Claim 5, Official Notice is taken that establishing, via the exchange, the fair market value of the credits, as determined by the market forces of supply and demand is old and well known in the art. Examples of commodity exchanges to establish fair market value for items traded include the Chicago Mercantile Exchange and the New York Stock Exchange.

Regarding Claim 6, CAAA teaches providing the means for owner/operators to redeem their respective exchange credits for delivery services provided to them by the plurality of ports (Reference E paragraph 5 line 7-8, credits may be sold to other fleet operators, including for delivery services).

Regarding Claim 8, CAAA teaches inducing a plurality of zero emission vehicles to carry freight to and/or from a port and a corresponding urban area (Reference E page 2 paragraph 7 line 1-2 – page 3 paragraph 1 line 1-3, fleets affected operating in urban areas where compliance nonattainment exists). CAAA does not teach a method for transferring freight comprising: providing a network of a plurality of ports disposed near corresponding urban areas; inducing a plurality of fossil fuel burning vehicles to carry freight in areas outlying the urban area to and from a corresponding port; and coordinating the transfer of freight between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles at the plurality of ports. CRST does teach a method for transferring freight comprising: providing a network of a plurality of ports disposed near corresponding urban areas (Reference B paragraph 3 line 1-2 warehouses located where needed); inducing a plurality of fossil fuel burning vehicles to carry freight in areas outlying the urban area to and from a corresponding port

(Reference C paragraph 7 line 2, van regional truckload service comprises service between outlying to urban areas); and coordinating the transfer of freight between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles at the plurality of ports (Reference B paragraph 4 line 3, cross docking provided to transfer freight between vehicles at freight terminals or ports). It would have been obvious to one of ordinary skill in the art at the time of invention to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to utilize fossil fuel burning vehicles to carry freight from outlying areas to a port where the freight is transferred to ZEVs for delivery in the urban area for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 9, CAAA does not teach scheduling and dispatching the plurality of zero emission vehicles relative to arrival at and departure from the plurality of ports at which freight is transferred between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles. CRST does teach scheduling and dispatching the plurality of zero emission vehicles relative to arrival at and departure from the plurality of ports at which freight is transferred between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles. It is old and well known in the art of logistics to schedule and dispatch freight that is coming into and going out of a port (Reference B paragraph 4 line 3, CRST teaches cross-docking at their freight ports; Reference C paragraph 3 line 1-2, CRST provides JIT shipments for auto plant, requiring detailed scheduling and dispatch). It would have been obvious to

one of ordinary skill in the art at the time of invention to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to schedule and dispatch ZEVs from the plurality of ports at which freight is transferred for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 10, CAAA does not teach debiting and crediting accounts of owners/operators of the plurality of zero emission and fossil fuel burning vehicles as their vehicles deliver freight to and pick up freight from the plurality of ports.

CRST teaches debiting and crediting accounts of owners/operators of the plurality of zero emission and fossil fuel burning vehicles as their vehicles deliver freight to and pick up freight from the plurality of ports (Reference B page 2 paragraph 2 line 3-4, EDI is provided to provide financial transactions including debiting and crediting accounts). It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to debit and credit accounts of owners/operators of the plurality of zero emission and fossil fuel burning vehicles as their vehicles deliver freight to and pick up freight from the plurality of ports for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 12, CAAA teaches wherein the plurality of zero emission vehicles are hydrogen fuel cell powered trucks (Reference D page 4 paragraph 2 line 1-

3, ZEV's are being developed). It is old and well known in the art that hydrogen fuel cell powered vehicles would be classified as zero emission vehicles.

Regarding Claim 13, CAAA does not teach wherein the freight is contained and transferred in trailers between fossil fuel powered truck tractors and zero emission truck tractors. CRST teaches wherein the freight is contained and transferred in trailers between fossil fuel powered truck tractors and zero emission truck tractors (Reference B paragraph 4 line 3, cross-docking service is provided by CRST). It is old and well known in the art to transfer freight between trucks at a terminal or port. This can be done by unloading the trailer to transfer it to another trailer, or more commonly in the case of TL freight, to switch tractors. It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to transfer freight between a fossil fuel tractor and ZEV truck tractor for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 14, CAAA does teach carrying the freight on the zero emission vehicle into the urban area (Reference E page 2 paragraph 7 line 1-2, fleets operating in nonattainment urban areas). CAAA does not teach a method for transferring freight from an outlying area to an urban area comprising the steps of: providing a port by utilizing existing or new truck terminals; inducing a fossil fuel burning vehicle carrying freight destined for an urban area to stop at the port; transferring the freight from the fossil fuel burning vehicle to a zero emission vehicle. CRST teaches a method for

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transferring freight from an outlying area to an urban area comprising the steps of: providing a port by utilizing existing or new truck terminals (Reference B paragraph 3 line 1-2, warehousing where needed); inducing a fossil fuel burning vehicle carrying freight destined for an urban area to stop at the port; transferring the freight from the fossil fuel burning vehicle to a zero emission vehicle (Reference B paragraph 4 line 3, cross docking provided as part of terminal service). It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to provide a port by utilizing existing or new truck terminals; inducing a fossil fuel burning vehicle carrying freight destined for an urban area to stop at the port; transferring the freight from the fossil fuel burning vehicle to a zero emission vehicle, carrying the freight on the zero emission vehicle into the urban area for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Claims 15 and 16 recite limitations already addressed by the rejection of Claim 14 above, therefore the same rejection applies.

Claim 17 recites limitations already addressed by the rejection of Claim 2 above, therefore the same rejection applies.

Claim 18 recites limitations already addressed by the rejection of Claim 10 above, therefore the same rejection applies.

Regarding Claim 20, CAAA does not teach wherein the port is disposed proximate the perimeter of the urban area. CRST teaches wherein the port is disposed

proximate the perimeter of the urban area (Reference B paragraph 3 line 1-2, CRST locates terminals or ports where they are needed, including proximate the perimeter of the urban area). It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to locate a port proximate the perimeter of the urban area for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Claim 21 recites limitations already addressed by the rejection of Claim 13 above, therefore the same rejection applies.

Claim 22 recites limitations already addressed by the rejection of Claim 12 above, therefore the same rejection applies.

Claim 23 recites limitations already addressed by the rejection of Claim 13 above, therefore the same rejection applies.

Regarding Claim 24, CAAA does not teach providing a plurality of networked ports, each adjacent a corresponding urban area, between which the fossil fuel burning vehicles carry freight. CRST teaches providing a plurality of networked ports, each adjacent a corresponding urban area, between which the fossil fuel burning vehicles carry freight (Reference B paragraph 3 line 3, CRST teaches a network of warehouses or terminals for distribution and transfer of freight). It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply

chain capabilities of a 3PL, such as CRST, to provide a plurality of networked ports, each adjacent a corresponding urban area, between which the fossil fuel burning vehicles carry freight for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Claim 25 recites limitations already addressed by the rejection of Claims 1 and 2 above, therefore the same rejection applies.

Regarding Claim 26, CAAA does not teach a scheduling agency in communication with the controller for scheduling and dispatching the plurality of zero emission vehicles and/or the plurality of fossil fuel burning vehicles relative to arrival at and departure from the plurality of ports at which freight is transferred between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles. CRST teaches a scheduling agency in communication with the controller for scheduling and dispatching the plurality of zero emission vehicles and/or the plurality of fossil fuel burning vehicles relative to arrival at and departure from the plurality of ports at which freight is transferred between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles (Reference C paragraph3 line 2, CRST provides JIT shipments for auto plant, requiring detailed scheduling and dispatch). It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to provide a scheduling agency in communication with the controller for scheduling and dispatching the plurality of zero emission vehicles and/or the plurality of fossil fuel burning vehicles

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relative to arrival at and departure from the plurality of ports at which freight is transferred between the plurality of zero emission vehicles and the plurality of fossil fuel burning vehicles for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 27, CAAA does not teach a transaction agency in communication with the controller for debiting and crediting accounts of the owners/operators of plurality of zero emission and fossil fuel burning vehicles as their vehicles deliver freight to and pick up freight from the plurality of ports. CRST teaches a transaction agency in communication with the controller for debiting and crediting accounts of the owners/operators of plurality of zero emission and fossil fuel burning vehicles as their vehicles deliver freight to and pick up freight from the plurality of ports (Reference B paragraph 4 line 2, EDI supported in warehouse, including the ability to transacting to debit and credit accounts to owners and operators of vehicles). It would have been obvious at the time of the invention to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to provide an agency in communication with the controller for debiting and crediting accounts of the owners/operators of plurality of zero emission and fossil fuel burning vehicles as their vehicles deliver freight to and pick up freight from the plurality of ports for the purpose of complying with regulations and obtaining incentives for using ZEVs in urban areas.

Regarding Claim 29, CAAA does not teach wherein the plurality of ports are disposed about the perimeter of corresponding urban areas. CRST teaches wherein the plurality of ports are disposed about the perimeter of corresponding urban areas (Reference B paragraph 3 line 1-2, warehousing provided where needed by client). As a 3PL CRST will provide location of warehouses as necessary to support customers needs and to ensure compliance with federal regulations, including regulations, restrictions or incentives regarding use of fossil-fueled trucks in urban areas. It would have been obvious to one of ordinary skill in the art to respond to CAAA incentives and restrictions regarding utilizing ZEVs in urban areas with modifying the integrated supply chain capabilities of a 3PL, such as CRST, to locate a plurality of ports disposed around the perimeter of corresponding urban areas for the purpose of meeting pollution compliance and locating warehouses in proximity to customers.

11. Claims 3, 7, 11, 19 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Clean Air Act Amendment of 1990 (CAAA) in view of CRST, Inc. logistics and supply chain services and further in view of the California Air Resources Board (CARB). The CARB is described in:

“Electric Vehicles: The case for (and against) incentives”, Public Utilities Fortnightly, April 1996, v134n8, pp. 24-28, hereafter referred to as Reference F)

Regarding Claim 3, CAAA and CRST do not teach collecting fees from owners/operators of the plurality of fossil fuel burning vehicles by utilizing existing government fee collection agencies or agents thereof, to fund the plurality of ports through a system of land port usage credits, which are credited to a land port credit

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exchange account of the owners/operators, upon payment of the fees. CARB teaches collecting fees from owners/operators of the plurality of fossil fuel burning vehicles by utilizing existing government fee collection agencies (Reference F page 6 paragraph 3 line 2-4, fees collected for purchase of fossil fuel 'dirty' vehicles and revenue used to fund rebates or credits for purchase of clean fuel vehicles) or agents thereof, to fund the plurality of ports through a system of land port usage credits (Reference E page 3 paragraph 5 line 1-2, companies can earn credits for fleet vehicles using clean fuels), which are credited to a land port credit exchange account of the owners/operators, upon payment of the fees. CARB teaches that fees to encourage ZEV use would achieve public benefit (Reference F page 6 paragraph 1 line 1, regulators may justify penalties due to public benefit, ostensibly from cleaner air). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of CAAA and CRST, as discussed above, with using existing agencies to fund a plurality of ports through payment of fees and usage credits for the purpose of encouraging the use of ZEVs to promote the public benefit of cleaner air.

Regarding Claim 7, CAAA and CRST do not teach providing the means to transfer payment to land port operators from GFCAS, upon delivery of land port services to such owner/operators. CARB teaches providing the means to transfer payment to land port operators from GFCAS, upon delivery of land port services to such owner/operators (Reference F page 6 paragraph 3 line 2-4, CARB teaches GFCAs transferring payments from fees levied on fossil fuel burning vehicles to provide incentives to those utilizing clean vehicles). CARB teaches that using fees to

encourage ZEV use would achieve public benefit (Reference F page 6 paragraph 1 line 1, regulators may justify penalties due to public benefit, ostensibly from cleaner air). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of CAAA and CRST, as discussed above, with transferring payment to land port operators upon delivery of services to such owner/operators for the purpose of encouraging the use of ZEVs to promote the public benefit of cleaner air.

Regarding Claim 11, CAAA and CRST do not teach collecting fees from owners/operators of the plurality of fossil fuel burning vehicles to fund the plurality of ports. CARB teaches collecting fees from owners/operators of the plurality of fossil fuel burning vehicles to fund the plurality of ports (Reference F page 6 paragraph 3 line 2-4, fees collected to fund use of low pollution vehicles). CARB teaches that using fees to encourage ZEV use would achieve public benefit (Reference F page 6 paragraph 1 line 1, regulators may justify penalties due to public benefit, ostensibly from cleaner air). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of CAAA and CRST, as discussed above, with collecting fees from owners/operators of the plurality of fossil fuel burning vehicles to fund the plurality of ports for the purpose of encouraging the use of ZEVs to promote the public benefit of cleaner air.

Claim 19 recites limitations already addressed by the rejection of Claim 3 above, therefore the same rejection applies.

Regarding Claim 28, CAAA and CRST do not teach a fee collection agency for collecting fees from owners/operators of the plurality of fossil fuel burning vehicles to fund the ports. CARB teaches a fee collection agency for collecting fees from owners/operators of the plurality of fossil fuel burning vehicles to fund the ports (Reference F page 6 paragraph 3 line 2-4, fees collected to fund use of low pollution vehicles). CARB teaches that using fees to encourage ZEV use would achieve public benefit (Reference F page 6 paragraph 1 line 1, regulators may justify penalties due to public benefit, ostensibly from cleaner air). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of CAAA and CRST, as discussed above, with having a fee collection agency for collecting fees from owners/operators of the plurality of fossil fuel burning vehicles to fund the ports for the purpose of encouraging the use of ZEVs to promote the public benefit of cleaner air.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Webarchive.org webpage of March 2, 1999 (www.yellowfreight.com) detailing Yellow freights company summary and development of 3PL capabilities.

Union of Concerned Scientists webpage of 11/30/2004 (www.ucsusa.org/clean_vehicles/) details history since 1990 of California Air Resources Board (CARB) detailing their legislative involvement with zero emission vehicles.

US 5,631,827 by Nicholls discloses a logistics system for automating transportation of goods.

US 6,151,582 by Huang discloses a decision support system for the management of an agile supply chain.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 703-305-0550. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 12-1-04


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600